

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

TERRI WATSON,

PLAINTIFF,

VS.

**NUVELL FINANCIAL SERVICES, LLC,
a foreign limited liability company; and
NATIONAL AUTO FINANCE COMPANY,
a foreign corporation; and fictitious defendants
A-Z, those persons, firms or corporations
who are unknown at this time but who will
be added by amendment when ascertained,**

DEFENDANTS.

CASE NO. 2:07-CV-639

**MOTION TO STRIKE AMENDED NOTICE OF REMOVAL,
RENEWED MOTION TO REMAND**

COMES NOW the Plaintiff and moves this Court to Strike the Amended Notice of Removal, as being untimely, and to Remand this case to the Circuit Court of Covington County, Alabama. In support of this Motion the Plaintiff argues the following:

1. On May 31, 2007 the Plaintiff filed her Complaint in the Circuit Court of Covington County, Alabama.
2. Both Defendants were served by June 13, 2007.
3. An action must be removed within 30 days of the service of the last Defendant.
4. The Defendants removed this action on July 12, 2007, the thirtieth day after service.
5. In their Notice of Removal, the Defendants raised one basis for Removal, Diversity of

Citizenship under 28 U.S.C. 1332 and 1441(a)(disregarding citizenship of fictitious defendants for purposes of Removal). Nowhere in their Notice of Removal, or the brief in support of it, did they raise or argue federal question jurisdiction pursuant to 28 U.S.C. 1331.

6. On August 30, 2007, however, almost 7 weeks after filing their Notice of Removal, (and more than 11 weeks after service) the Defendants amended their Notice of Removal, without leave of Court, to allege a completely new ground for Removal, that ground being federal question jurisdiction under § 1331.

7. The Defendants' amended notice is untimely filed because a Notice of Removal cannot be amended, after the initial 30-day time limit for Removal, to state new grounds for Removal.

8. The only ground the Defendants raise in their Notice of Removal is diversity of citizenship. The amount in controversy in the present case does not exceed \$75,000.00, exclusive of interest and costs and for this reason the case should be remanded to state court.

WHEREFORE, for the above reasons, the Plaintiff moves this Court to Strike the Defendants' Amended Notice of Removal, and remand the entire case to the Circuit Court of Covington County, Alabama.

s/Thomas B. Albritton
Attorney for Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing upon all counsel of record in this cause by e-service on this, the 6th day of September, 2007:

G. Thomas Yearout
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s/Thomas B. Albritton
Of Counsel